

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

REC'D 31 DEC 2003

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Applicant's or agent's file reference HARD1.070VPC	FOR FURTHER ACTION <span style="float: right;">See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)</span>	
International application No. PCT/US 02/38121	International filing date (day/month/year) 25.11.2002	Priority date (day/month/year) 28.11.2001
International Patent Classification (IPC) or both national classification and IPC E04B2/72		
Applicant JAMES HARDIE RESEARCH PTY LIMITED et al.		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion      II <input type="checkbox"/> Priority      III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability      IV <input type="checkbox"/> Lack of unity of invention      V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement      VI <input type="checkbox"/> Certain documents cited      VII <input type="checkbox"/> Certain defects in the international application      VIII <input type="checkbox"/> Certain observations on the international application</p>

Date of submission of the demand 10.06.2003	Date of completion of this report 29.12.2003
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Glomm, B Telephone No. +49 89 2399-7158



**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US 02/38121

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-43 as originally filed

**Claims, Numbers**

1-40 as originally filed

**Drawings, Sheets**

1/30-30/30 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY  
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5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1-40
Inventive step (IS)	Yes: Claims	
	No: Claims	1-40
Industrial applicability (IA)	Yes: Claims	1-40
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

Relevant documents:

D1: PATENT ABSTRACTS OF JAPAN vol. 2000, no. 05, 14 September 2000 (2000-09-14) & JP 2000 064465 A (MISAWA CERAMICS CORP), 29 February 2000 (2000-02-29)

D2: US 5 857 730 A (KORPI JOHN G ET AL) 12 January 1999 (1999-01-12)

D3: FR 2 764 032 A (CAFAC) 4 December 1998 (1998-12-04)

D4: DE 297 18 716 U (HUFNAGEL HANS) 12 February 1998 (1998-02-12)

D5: US 4 915 758 A (BAGGETT JR GEORGE E ET AL) 10 April 1990 (1990-04-10)

D6: DE 37 33 248 C (SWECOM REEFER AB) 9 February 1989 (1989-02-09)

**1. Novelty (Art. 33 (2) PCT)**

Each of documents D1 to D6 discloses a caulkless panelized wall system as specified in detail in the characterizing part of present product claim 21 (see D1, abstract and fulltext of original Japanese document; see D2, col. 1, l. 21 to col. 2, l. 13; figures 1 to 10; claims 1 to 7 and abstract; see D3, p. 2, l. 23 to p. 5, l. 25; figures 1 + 2; claims 1 to 5 and abstract; see D4, p. 5, l. 18 to p. 10, l. 23; figures 1 to 6; claims 1 to 21 and abstract; see D5, col. 1, l. 64 to col. 2, l. 47; figures 1 to 5; claims 1 to 3 and abstract; see D6, col. 1, l. 31 to col. 2, l. 68; claims 1 + 2 and abstract).

The attention of the applicant is drawn especially to the fact, that the parameter "caulkless" as specified repeatedly in present claim 21 appears to be implicitly disclosed by each of said documents D1 to D6.

Consequently, each of documents D1 to D6 anticipates the subject matter of broadest present claim 21.

The same considerations also relate to the additional features of the process claim 1 and also to the dependent subclaims 2 to 20 and 22 to 40, respectively, when taking into account the full disclosure of each of documents D1 to D6.

**Therefore the subject matter of present application is not new in view of the disclosure of each of documents D1 to D6.**

**2. Inventive Step (Art. 33 (3) PCT)**

Providing an amended main claim which meets the requirements of Art. 33 (2) PCT, in the subsequent European regional stage, if any, the applicant is invited to relate the distinguishing feature to a surprising (unexpected) technical effect or make credible or plausible that the distinguishing feature is not derivable from the prior art teaching (Art. 33 (3) PCT).